

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

DONNA BULRIS,

Plaintiff,

-v.-

1:10-CV-922

LARRY KUDRLE,

Defendant.

**THOMAS J. McAVOY,
Senior United States District Judge**

DECISION & ORDER

I. INTRODUCTION

The Clerk sent to the Hon. Andrew T. Baxter, United States Magistrate Judge, a complaint in this action together with an application to proceed *in forma pauperis* filed by Plaintiff, Donna Bulris. (Dkt. Nos. 1, 2). After review of the complaint, Magistrate Judge Baxter recommended that the complaint be dismissed in its entirety with prejudice pursuant to 28 U.S.C. 1915(e)(2)(B)(i)-(ii). Dkt. # 10. Plaintiff responded by filing an identical document as both objections to the recommendation and as an amended complaint. Just as Plaintiff did in the original complaint, she complains in the Amended Complaint [dkt. # 13] of actions taken in the state Family Court during which Defendant Kudrle served as Law Guardian for the subject children. As explained by Magistrate Judge Baxter, Defendant Kudrle's actions in his role as a private attorney do not give rise to a federal civil rights claim. Further, as also explained by Magistrate Judge Baxter,

Plaintiff may not challenge the custody determinations of the state Family Court absent the commencement of a federal *habeas corpus* petition which requires prior exhaustion of all available state remedies and the naming as a respondent “the state officer who has custody” of the Petitioner. Petitioner has neither plead exhaustion of state remedies nor named as a respondent “the state officer who has custody” of the Petitioner.

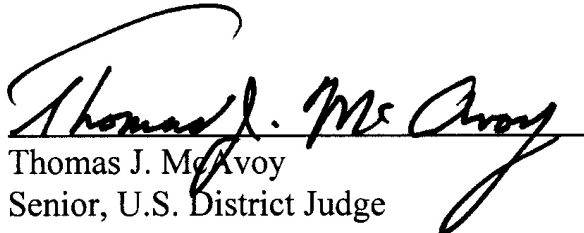
II. CONCLUSION

Having reviewed the Order and Report-Recommendation [dkt. # 10], and having reviewed Plaintiff’s Amended Complaint [dkt. # 13], the Court **ADOPTS** the recommendations made by Magistrate Judge Baxter in the Order and Report-Recommendation in their entirety. For the reasons stated in the Order and Report-Recommendation, the Complaint [dkt. # 1] and the Amended Complaint [dkt. # 13] are **DISMISSED IN THEIR ENTIRETY WITH PREJUDICE** pursuant to 28 U.S.C.

1915(e)(2)(B)(i)-(ii). Should Plaintiff desire to bring a *habeas corpus* petition, she may do so against the proper respondent and after exhaustion of state remedies.

IT IS SO ORDERED

DATED: February 8, 2012


Thomas J. McAvoy
Senior, U.S. District Judge